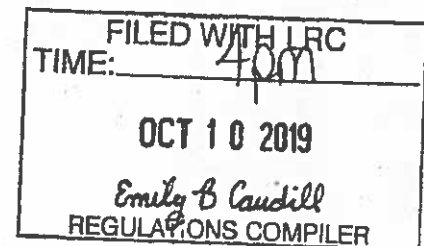


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1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 31:020. Records.

5 RELATES TO: KRS 131.180, 139.010, 139.200, 139.270, 139.620, 139.720

6 STATUTORY AUTHORITY: KRS 131.130~~[KRS Chapter 13A]~~

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
8 Department of Revenue to promulgate administrative regulations for the administration and
9 enforcement of Kentucky tax laws. This administrative regulation interprets ~~[To interpret]~~ the
10 sales and use tax law as it applies to the records required to be maintained to support sales and
11 use tax reports.

12 Section 1. Every seller, retailer, and person storing, using, or otherwise consuming in the
13 state tangible personal property, digital property, or services included in KRS 139.200 purchased
14 from a retailer, shall keep adequate and complete records showing:

15 (1) The gross receipts from the sales of tangible personal property, digital property, and
16 services included in KRS 139.200 (including any services that are a part of the sale) made within
17 Kentucky.

18 (2) All deductions allowed by law and claimed in filing returns.

19 (3) The total purchase price of all tangible personal property, digital property, and services
20 included in KRS 139.200 purchased for sale or consumption in Kentucky.

1 Section 2. These records shall ~~[must]~~ include:

2 (1) The normal books of account ordinarily maintained by the business engaged in the
3 activity in questions; ~~[the normal books of account ordinarily maintained by the average prudent~~
4 ~~business man engaged in the activity in question, together with]~~

5 (2) All ~~[all]~~ bills, receipts, invoices, cash register tapes, cancelled checks, bank statements,
6 or other documents of original entry supporting the entries in the books of account; ~~[-as well as]~~

7 (3) All ~~[all]~~ schedules or working papers used in connection with the preparation of tax
8 returns; and

9 (4) All ~~[all "resale certificates", "agricultural certificates", and]~~ other approved certificates or
10 standard data elements from an electronic form that correspond to the information provided on
11 exemption certificates minus the signature received from purchasers.

12 Section 3. All ~~[such]~~ records for any period shall be preserved until the statutory limitation
13 relating to the assessment of additional tax for that period has expired pursuant to KRS 139.620,
14 unless the department provides written authorization to destroy the records prior to the
15 expiration of the statute of limitations. ~~[in writing sooner authorizes their destruction.]~~ An
16 agreement between the taxpayer and the department, extending the period of limitation upon
17 assessment, shall automatically extend the period for which preservation of the records is
18 required. Failure to maintain such records shall ~~[will]~~ be considered evidence of negligence or
19 intent to evade the tax, and may result in the imposition of appropriate penalties.

103 KAR 31.020

APPROVED BY AGENCY:

Daniel Bork
DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 10, 2019
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on December 27, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 31.020

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation interprets the sales and use tax law as it applies to the records required to be maintained to support sales and use tax reports.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide up to date guidance on the sales and use tax law as it applies to the records required to be maintained to support sales and use tax reports.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to clarify information currently contained in the regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change this existing administrative regulation by updating statutory references within the "RELATES TO" section and body of the regulation, updating the promulgation statement with the "NECESSITY, FUNCTION, AND CONFORMITY" section, adding digital property and services included in KRS 139.200 per statute, including language regarding standard data elements, and updating language within the body of the regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide updated and accurate information regarding guidance on the sales and use tax law as it applies to the records required to be maintained to support sales and use tax reports.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment assists in the effective and accurate administration of the statutes by updating statutory references within the "RELATES TO" section and body of the regulation, updating the promulgation statement with the "NECESSITY, FUNCTION, AND CONFORMITY" section, adding digital property and services included in KRS 139.200 per statute, including language regarding standard data elements, and updating language within the body of the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Every seller, retailer, and person storing, using, or otherwise consuming in the state tangible personal property, digital property, or services included in KRS 139.200 purchased from a retailer

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities identified in

Question 3 shall keep adequate and complete records related to the gross receipts, deductions and total price related to tangible personal property, digital property and services included in KRS 139.200.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 31.020

Contact Person: Lisa Swiger
Phone Number: (502) 564-9526
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenues are expected to be generated by updating this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: